

the Courts of Justices of the Peace, when the matter in controversy shall exceed one hundred dollars and not exceed two hundred dollars, inclusive of interest; and concurrent jurisdiction with the Justices' Courts of all misdemeanors of which exclusive original jurisdiction is not given to the Justices' Courts, as the same are now or may be hereafter prescribed by law."

Senator Crain moved to amend by adding all the counties of his district.

Senator McLeary moved to amend by adding all the counties in the State.

Lost.

Senator Edwards' amendment was lost.

The bill was ordered engrossed by the following vote:

YEAS—Senators Blassingame, Brown, Burton, Crain, Douglass, Edwards, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, Moore, Piner, Ripetoe, Stephens, Storey, Thompson, Wortham—23.

NAYS—None.

On motion of Senator Grace, the rules were suspended, and bill placed on its third reading, by the following vote:

YEAS—Senators Blassingame, Brown, Burton, Crain, Douglass, Edwards, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, McCormick, Moore, Piner, Ripetoe, Stephens, Storey, Thompson, Wortham—21.

NAYS—Martin, McLeary—2.

Bill read third time, and passed by the following vote:

YEAS—Senators Blassingame, Brown, Burton, Crain, Douglass, Edwards, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, Moore, Piner, Stephens, Storey, Thompson, Wortham—22.

NAYS—Senator Ripetoe.

On motion of Senator Crain, the Senate adjourned until 10 o'clock tomorrow morning.

### THIRTY-FOURTH DAY.

SENATE CHAMBER, }  
AUSTIN, TEXAS, May 27, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday read and adopted.

A message was received from the House, announcing the passage by that body, of the following bills and resolutions:

House Bill No. 8—"An Act to regulate the opening, laying, out and working of public roads in the State of Texas."

House Joint Resolution No. 213—"To provide for the creation of a special commission to obtain certain information and report thereon, in relation to the building of a new penitentiary, and to make appropriation for the payment and expenses thereof."

House Joint Resolution No. 179—"Providing for the printing and distribution of such general laws as take effect from and after their passage," passed at this session of the Fifteenth Legislature.

Also, that the House concurs in Senate amendments to House Bill No. 26, "to amend Article 3450 of the criminal code," being Section 20 of "An Act concerning divorce and alimony," passed January 6, 1841.

Senator Thompson presented the petition of numerous citizens of Colorado county, living in that part of said county intended to be embraced in the formation of a proposed new county, to be called Menefee, protesting against the cutting off of any portion of their county for said purpose."

Read and referred to the Committee on Counties and County Boundaries.

Senator McLeary, from the Committee on the General Land Office, submitted the following minority report:

*Hon. R. B. Hubbard, President of the Senate:*

The undersigned, a minority of your Committee on General Land Office, to whom was referred House Bill No. 99, "An Act to regulate the fees to be charged by the Commissioner of the General Land Office," beg leave to submit the following minority report:

The Constitution requires the Legislature to make the General Land Office self-supporting, which it is not at present.

The income of the office, as shown by the Commissioner's report for the fiscal year ending August 31, 1875, from all sources, amounted to \$54,530.91. The amount appropriated for the support of the General Land Office for the fiscal year ending August 31, 1876, amounted to \$56,750. The salaries of two corresponding clerks and a draftsman were omitted in the last appropriation, amounting to \$4500, making a total of \$61,250, required to support the Land Office, leaving a deficit of \$6,719.19 to be made up by the State.

The revenue of the office for the year 1875 was unprecedentedly large, and there is no guarantee that they will continue at that rate; but taking that amount as the basis for the next year, we find that the estimated appropriation required for the support of the office will amount to \$61,250 in the aggregate; deduct from this amount the estimated revenue, \$55,000, and a deficit remains to be provided for, of \$6,250, which can only be made up by increasing the fees of the office. Under the bill now under consideration, pre-emptors are not affected to any extent, the patent fee being the same as under the present law, \$5; the only increase being in the fee charged for filing documents, which will only increase the expense to the pre-emptor of 75 cents at the most.

The minority of your committee, therefore, recommend that the bill do pass with the following amendments:

Add after the word, "work," in second line of page 3, for certificate and seal not otherwise herein provided for, 50 cents each; for administering oath or making acknowledgment before the Commissioner, 50 cents.

Strike out Section 4 and insert, "whenever the Commissioner of the General Land Office shall notify any party that a patent for which he has applied will be ready within thirty days from the notice, all the fees shall be deposited with the Receiver of the General Land Office, and the patent shall be delivered as soon as possible after said notice and deposit.

With these amendments, the minority recommend the passage of the bill.

McLEARY, for Minority.

Senator Piner, Chairman of Committee on Judiciary No. 2, submitted the the following report :

*Hon. R. B. Hubbard, President of the Senate:*

Your Judiciary Committee No. 2, to whom was referred Senate Bill No. 128, entitled, "An Act to carry into effect Article 16, Section 11, of the Constitution of the State of Texas," have had the same under consideration, and I am instructed by a majority of said committee to report it back with the following amendment, and to recommend that, as amended, it do pass.

Add to the bill, the following sections :

"SEC. 3. In case the holder of a claim for money, affected by the taint of usury, of which said holder had notice, actual or constructive, is seeking to enforce collection of the same by a sale of property conveyed in trust to secure the same, it shall be lawful for the debtor, upon application to the court having jurisdiction, or the Judge thereof, showing said usurious taint affecting said contract, to obtain an injunction against such sale, without payment or tender of payment of the amount actually received by said debtor, and said injunction shall be perpetuated upon final hearing, if the charge of usury and notice be sustained, and in such case no judgment shall be rendered in favor of the claimant for the amount of money actually loaned.

"SEC. 4. In any suit for the collection of money, the defendant may show, if such be a fact, that the contract or account upon which recovery is sought, is tainted with usury; and upon that fact being established, the suit shall be dismissed at the cost of the plaintiff, except in cases where the suit is brought upon a negotiable promissory note or bill of exchange, shown to have been transferred before maturity, and acquired by the plaintiff for a valuable consideration, without knowledge of the usurious taint."

PINER, *Chairman.*

Senator Guy, from Judiciary Committee No. 2, submitted the following minority report from said committee :

*Hon. R. B. Hubbard, President of the Senate:*

The undersigned, a minority of your Judiciary Committee No. 2, to whom was referred Senate Bill No. 128, entitled, "An Act to carry into effect Article 16, Section 11, of the Constitution of the State of Texas, dissent from the report of the majority of said committee, and respectfully submit that said bill is unreasonable, unjust, oppressive and contrary to public policy. We are in favor of providing appropriate pains and penalties to prevent and punish usury as regarded by the Constitution, but cannot consent to the passage of a law that will so seriously obstruct the collection of debts as this bill would do should it become a law.

The bill reported by a majority of the committee proceeds on the supposition that all creditors are violators of the law. It assumes that every man who applies to the courts for a recovery of money or property, has violated the laws of this State, and thereby has forfeited all right to the protection of these laws, while it holds out tempting inducements to debtors to escape the burden of just and honest obligations at any sacrifice of reputation and good morals.

Under the provisions of the bill, the whole amount of principal and interest is forfeited, while we believe the forfeiture of the entire interest



is a sufficient and appropriate penalty, and we are of the opinion that said bill should not pass. We respectfully propose the following substitute for the original bill, to-wit: "An Act to regulate interest," which embodies substantially the laws in force on the subject, under the Republic and State of Texas, down to the 30th day of March 1870, and ask that this minority report and substitute be adopted.

GUY,  
BROWN,  
STEPHENS,

*Minority of Committee.*

Senator Storey introduced a bill to be entitled: "An Act to amend Article 630 of 'An Act to establish a code of criminal procedure for the State of Texas,' approved August 26, 1856.

Read by caption and referred to Judiciary Committee No. 1.

On motion of Senator Smith, the House bills on the President's table were taken up and referred to appropriate committees, to-wit:

House Bill No. 141, entitled: "An Act to authorize the Secretary of State to employ extra clerks in his office, and to make appropriation to pay the same."

Referred to Committee on Finance.

House Bill No. 86, entitled: "An Act to make an appropriation of the Fourteenth Legislature for frontier defense available for payment of deficiency for previous years for same purpose."

Referred to Committee on Finance.

House Bill No. 68, entitled: "An Act to provide for refunding money paid into the State Treasury in certain cases."

Referred to Committee on Finance.

House Bill No. 135, entitled: "An Act to make persons liable for damages to the owner for buying stolen property after nightfall."

Referred to Judiciary Committee No. 2.

House Joint Resolution No. 182: "To provide for the survey, condemnation and sale of certain property belonging to the State of Texas."

Referred to Committee on State Affairs.

House Bill No. 112: "To amend Articles 540 and 541 of the code of criminal procedure of the State of Texas."

Referred to Judiciary Committee No. 1.

House Bill No. 100, entitled: "An Act to prevent the removal of rock, slate, coal or minerals from the premises of another, and prescribing a punishment therefor."

Referred to Judiciary Committee No. 2.

House Bill No. 8, entitled: "An Act to regulate the opening, laying out, classifying and working of public roads in the State of Texas."

Referred to Committee on Roads, Bridges and Ferries.

House Bill No. 88, entitled: "An Act to prohibit the sale, exchange or gift of intoxicating liquors in any county, Justice's precinct, city or town in this State, that may so elect; prescribing the mode of election, and affixing a punishment for its violation."

Referred to Committee on State Affairs.

Concurrent Resolution: "Requiring the different standing committees of the Legislature to ascertain, at once, what bill or bills are necessary to enact the laws required by the Constitution, coming under the respective head of each one, and report the same to the Legislature immediately," etc.

Referred to Judiciary Committee No. 1.

The President of the Senate, after publicly reading its caption, signed House Bill No. 26, entitled: "An Act to amend Section 2 of an act concerning divorce and alimony, passed January 6, 1841.

On motion of Senator Guy, Senator Terrell was excused for the day.

Senator McCulloch offered the following resolution:

*Be it resolved by the Senate of the State of Texas, That when we adjourn that we meet on Monday at 9 o'clock A. M.*

*Now be it further Resolved, That the Senate remain in session four hours on each succeeding day until it may be deemed wise and practicable to have evening sessions.*

Read, and on motion of Senator Smith, referred to the Committee on Rules.

Senator McLeary offered the following resolution:

*Resolved, That the Committee on the General Land Office be instructed to examine the condition of the Spanish Archives of the General Land Office, and to report what legislation, if any, is required for their safe preservation and protection.*

Adopted.

On motion of Senator Thompson, the resolution offered by himself, to add a new rule to our rules (to-wit: Rule 97), was called up.

Resolution read and adopted.

On motion of Senator Guy, the rules were suspended, and Senate Bill No. 148, "An Act to define the duties of Judges of the County Court in certain cases therein mentioned, was taken up, read second time, and ordered engrossed.

On motion of Senator Guy, the rules were suspended to place the bill on its third reading by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Crain, Douglass, Edwards, Grace, Guy, Henry J. R., Hobby, Ledbetter, Martin, McCormick, McCulloch, Moore, Piner, Ripetoe, Smith, Stevens, Storey, Thompson, Wortham—24.

NAYS—None.

Bill read third time, and passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Burton, Crain, Douglass, Edwards, Ford, Guy, Henry J. R., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—25.

NAYS—None.

On motion of Senator Thompson, the rules were suspended, and House Joint Resolution No. 213, "To provide for the creation of a special commission, to obtain certain information and report thereon in relation to the building of a new penitentiary, and make appropriation for the payment and expenses thereof," was taken up, and, on motion of Senator Storey, referred to the Committee on Penitentiaries.

On motion of Senator Edwards, the rules were suspended, and House Joint Resolution No. 179, "Providing for the printing and distribution of such general laws as take effect from and after their passage," was taken up, read, and, on motion of Senator McLeary, referred to the Committee on State Affairs.

On motion of Senator Hobby, the rules were suspended, and substitute for Senate Bill No. 119, "An Act to regulate proceedings in the County Court, pertaining to the estates of deceased persons," was taken

up, and made the special order for May 30, next, at 11 o'clock A. M., and from day to day until disposed of.

A message was received from the House, announcing the passage by that body, of House Bill No. 188, "An Act to provide for special terms of the District Court in the Twentieth Judicial District," and House Bill No. 64½, "An Act to organize Commissioners' Courts, and to define their jurisdiction and duties, and provide for vacancies therein."

The hour having arrived for the consideration of special order of the day, being Senate Bill No. 103, "An Act to better define the powers and duties of Sheriffs, and other officers," the bill was taken up and read a second time.

Senator Hobby in the chair.

Senator Storey offered the following amendments:

In Section 4, line 7, after the word, "arms," insert the following: "or when it is absolutely necessary, to prevent a person charged with the offense of murder, theft of property of the value of twenty dollars or over, arson, rape, or robbery, from making his escape."

Also, add to the end of Section 4, the words, "or to prevent the escape of persons charged as aforesaid."

Adopted.

Senator Piner moved to strike out Section 1.

Senator Brady moved to re-commit bill and pending amendments to the Committee on State Affairs.

Senator Thompson offered the following amendment:

In Section 1, line 5, after "knowledge," insert, "and except in cases of offenses committed in his presence, shall make an affidavit as to such personal knowledge, before any officer authorized to administer oaths."

President in the chair.

Senators Thompson and Piner withdrew their amendments.

Senator Brady withdrew his motion to re-commit and moved that the bill be postponed until Tuesday next at 11 o'clock, A. M., and made the special order for that time, and from day to day until disposed of.

Carried.

Senator Storey, Chairman of Committee on Finance, by leave, submitted the following report from the Committee on Finance:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Finance, to whom was referred House Bill No. 141, "An Act to authorize the Secretary of State to employ extra clerks in his office, and to make appropriation to pay the same," have had the same under consideration, and I am instructed to report the bill back to the Senate and recommend that it do pass. STOREY, Chairman.

Senator McLeary, Chairman Committee on State Affairs, submitted, by leave, the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on State Affairs, to whom was referred House Joint Resolution No. 179, "Providing for the printing and distribution of such general laws as take effect from and after their passage, passed at this session of the Fifteenth Legislature," have had the same under consideration, and beg leave to report it back with the following amendments, to-wit:



Amend by adding:

"SEC. 2. The necessity for a general knowledge of the laws by the people of Texas, causes an emergency, and it is hereby enacted that this joint resolution shall take effect from and after its passage."

In Section 1, line 5, strike out, "1,500," and insert, "2,000;" and, as amended, recommend its passage. McLEARY, *Chairman*.

Senator Edwards, by leave, introduced the following joint resolution, "Making an appropriation to provide for perpetuating the memory of our distinguished statesmen and heroes, by securing their portraits."

Read and referred to Committee on Statistics of Industry, Public Health and History of Texas.

On motion of Senator Grace, the Senate adjourned until Monday morning at 10 o'clock.

### THIRTY-FIFTH DAY.

SENATE CHAMBER, }  
AUSTIN, TEXAS, May 29, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

Pending the reading of the journal of Saturday, on motion of Senator Terrell, the further reading was dispensed with.

The same was adopted.

On motion of Senator Grace, Senator Crain was excused for the day on account of illness.

Senator Hobby presented the petition of citizens of Liberty county, "asking for the passage of a law making it a penal offense to kill unbranded and unmarked calves and other cattle."

Read and referred to Committee on Stock and Stock Raising.

Senator Stephens presented a petition from citizens of Coryell county, "asking the repeal of all laws levying occupation taxes."

Read and referred to Judiciary Committee No. 2.

Senator Stephens, Chairman Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM, May 29, 1876.

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Engrossed Bills beg leave to report that they have carefully examined and compared the following Senate Bills, to-wit: Senate Bill No. 30, "An Act to authorize the Secretary of State to furnish certain books to libraries of law schools;" Senate Bill No. 104, "An Act to prescribe the time for holding the District Court in the Twenty-second Judicial District;" also, Senate Bill No. 23, "An Act to regulate the appointment and define the duties of Notaries Public," and find the same correctly engrossed.

STEPHENS, *Chairman*.

Senator Henry of Cass, Chairman Committee on Public Buildings and Grounds, submitted the following report:

*Hon. R. B. Hubbard, President of the Senate:*

Your Committee on Public Buildings and Grounds, to whom was referred Senate Bill No. 79, "An Act to provide for supplying the State Capitol buildings and Capitol grounds with water," have had the same under consideration, and beg leave to report it back, with the following